

Serial No. 10/618,977

PATENT

REMARKS

The Office Action sets forth a requirement for restriction between Group I – claims 1-6, 10-14, 16-17 and 19-20, drawn to a coated endoluminal medical device and expandable structure; and Group II – claims 7-9, 15 and 18, drawn to a coated endoluminal medical device. In response, Applicants elect with traverse Group I, claims 1-6, 10-14, 16-17, and 19-20.

The Examiner classified Group I and Group II in classes 623 and 424, respectively. Applicants respectfully disagree with this separate classification and believe it was in error. Both Group I and Group II should properly be classified in class 424, subclass 423. Applicants' antithetical reasoning finds basis, for example, first in the class definitions. Class 623, subclass 1.11 is directed to "subject matter wherein the artificial blood vessel or part thereof includes an artificial blood vessel support frame, and wherein means is provided for implanting the artificial blood vessel support frame into a blood vessel." Applicants' invention includes, but is not limited to an artificial blood vessel. Class 424, subclass 423 is directed to "subject matter in which the composition is claimed or disclosed as surgically implantable."

Both Group I and Group II, as designated by the Examiner, can properly be classified in this latter classification. In view thereof, Applicants request reconsideration of the requirement to restrict.

The Office Action further requires election of species. In response, Applicants elect with traverse Species A-fig. 8. Applicants regard claims 1-6, 10-14, 16-17 and 19-20 to read on Species A and on other species (including at least Species B, C, and D) that Applicants regard as very closely related to Species A. Furthermore, Species A is included in or part of each of Species B-D, ie, these species overlap in scope. Thus, the Examiner was in error to require an election of species and Applicants request reconsideration of the requirement to a single disclosed species.

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Applicants reserve the right to an examination of non-elected subject matter once a generic claim is allowed, as well as the right to file a divisional application incorporating any cancelled subject matter. Applicants request examination of non-elected species when a generic claim is allowed. Applicants timely traversed the election requirement.

Respectfully submitted,

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Enclosures: